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VIA ECF

Honorable Ann M. Donnelly
United States District Court Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Robert Kelly, 19-286 (S-1)(AMD)

Dear Judge Donnelly:

On July 12, 2021, the Court issued an Order stating, “The Court directs Metropolitan Detention Center (“MDC”) to ensure that the defendant is able to meet with his counsel in a private room at MDC. MDC will ensure that these meetings can take place as frequently as the defendant and his counsel request, and for the duration that the defendant and his counsel request, within MDC’s normal visiting hours. Defense counsel is directed to inform the Court without delay if they face difficulties booking or having client visits.”

In accordance with the Court’s directive, we are writing to inform the Court that defense counsel continues to encounter multiple obstacles in our efforts to prepare for trial with our client.

- We need to be able to review the enormous amounts of discovery with our client. Today we were unable to bring binders, which were full of discovery materials, into the MDC.
- We have been denied access with the necessary tools to assist us in having meaningful, productive meetings with our client. For example, we are not allowed to bring highlighters, sticky notes, markers, etc. Although these things may seem trivial to most, when preparing for a trial of this magnitude, without these requests allow a nearly impossible situation even more impossible.

- We are allowed to bring in a computer, but not the charging cord that goes with it. If we are visiting for longer than four hours, presumably the computer will be dead and of no use.
- Not to mention, we have no internet access while meeting with our client. As this court is aware, all the discovery and 3500 materials for this case has been provided to the defense via external hard drives. We are not able to bring the Government's provided external hard drives into the MDC. Without the internet it is impossible to have all the Government's disclosure available for review while meeting with our client.
- If the Government were required to prepare for this case without their computers, internet, iPads, tablets and phones, perhaps we would have no room to notify this Court of our concerns. However, that is clearly not the case because that would handicap the Government, just like it is handicapping us now.
- Lastly, Mr Kelly suffers from diabetes. He anticipated spending numerous hours with us. There are no vending machines available in the visiting room. He was denied the right to bring down a candy bar which would prevent him from having a diabetic episode.

The notion that Mr. Kelly can receive a fair trial based on these circumstances is not practical. This thwarts our ability to have private, meaningful, unfettered access to our client and for Mr. Kelly to meaningfully assist in his defense.

Respectfully submitted,

/s/ Nicole Becker, Esq.
/s/ Thomas Farinella, Esq.
/s/ Deveraux L. Cannick, Esq.
Attorneys for Defendant, Robert S. Kelly

DLC/mw

cc: All parties via ECF